IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.8.2007

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.27400 of 2007 &
M.P.No.1 of 2007

Lakshmi Machine Works Ltd,
Periyanaickenpalayam,
Coimbatore,
rep. by its Company Secretary,
K.Duraisamy. .. Petitioner

vs.

The Assistant Commissioner (CT),
Fast Track Assessment Circle-II,
Coimbatore. .. Respondent

This writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records relating to the order, dated 31.7.2007, passed by the respondent in respect of the petitioner's TIN.33122020099/2007-08 and quash the same.

For petitioner : Mr.Palani Selvaraj
For respondent : Mr. R.Mahadevan
Additional Government Pleader

O R D E R

It is submitted by the learned counsel for the petitioner that the petitioner is a textile machinery manufacturing company for several decades and such machineries are sold in the local market and also exported to foreign countries. The petitioner is a registered dealer under the Tamil Nadu Value Added Tax Act, 2006, and regularly filing monthly returns without any default. While so, the respondent had issued two notices on 12.7.2007, in TIN.33212020099/2006-07, under the Tamil Nadu Value Added Tax Act, 2006, for Verification of Monthly Returns for the period from January 2007 to March 2007 and another notice, dated 12.7.2007, in TIN.33212020099/2007-08

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for the period from April 2007 to June 2007 relating to Excess availment of Input Tax Credit. The petitioner had sent a letter, dated 24.7.2007, requesting 15 days time to file a reply to the notices, dated 12.7.2007.

2. It is further submitted by the learned counsel for the petitioner that, without considering the request made by the petitioner, the respondent had passed the impugned proceedings, dated 31.7.2007, in TIN.33122020099/2007-08 which is as follows:-

> "On 12.7.2007 through the notices referred above, you have been intimated that you have availed an excess Input Tax Credit of Rs.99,70,989/- and Rs.70,70,655/- in your monthly returns filed for the months of January to June 2007. Through your letter dated 17.7.2007, you have asked for 15 more days time to submit the reply. You have not filed any reply till date. It is construed that you have got no reply to file and it is ordered to reverse the above said Input Tax Credit claim by you. A penalty under Sec. 27(4) of 150% for the wrong claim of Input Tax Credit is also levied."

3. Therefore, it is submitted that the respondent had passed the impugned order, dated 31.7.2007, without giving sufficient opportunity to the petitioner.

4. Mr.R.Mahadevan, learned Additional Government Pleader, appearing on behalf of the respondent has not refuted the claims made on behalf of the petitioner.

5. In such circumstances, the impugned order of the respondent, dated 31.7.2007, made in TIN.33122020099/2007-08, is set aside. The petitioner is permitted to submit a reply to both the notices of the respondent, dated 12.7.2007, within a period of 15 days from today. On such submission of the reply by the petitioner, the respondent is directed to consider the same and pass appropriate orders, on merits and in accordance with law, within a period of four weeks thereafter.

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6. With the above directions, the writ petition is disposed of. No costs. Consequently, connected M.P. is closed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

akv

To

The Assistant Commissioner (CT),
Fast Track Assessment Circle-II,
Coimbatore.

+1cc to Mr.Palani Selvaraj, Advocate Sr 52864
+1cc to Govt. Pleader (Taxes), Chennai SR 53088

MS (CO)
km/31.8.

W.P.No.No.27400 of 2007

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